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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/336,392	06/18/1999	TERRENCE R. GREEN	25658-0002	7579

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EXAMINER

DEWITTY, ROBERT M

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 03/27/2002

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/336,392

Applicant(s)

GREEN ET AL.

Examiner

Robert M DeWitty

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 61-98 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 61-69, 73, 76, 92, 93, 95 and 96 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 61-98 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

Claims 61-98 are pending in the instant application. Claims 1-60 have been cancelled. Acknowledgment is made of Applicant's election of species filed 2/19/02. Claims 61-69, 73, 76, 92-93, and 95-96 are drawn to the elected species.

Election/Restrictions

1. Applicant's election without traverse of elemental iodine, alkali iodide salt, alkali iodate salt, glucose oxidase, silicone polymer, and an implant in Paper No. 11 is acknowledged.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 61-63, 65, 66, 68, 69, and 92-93 are rejected under 35 U.S.C. 102(b) as being anticipated by Karns (U.S. Pat. No. 1,867,222).

Karns relates to material for making surgical dressings. It is taught that free elemental iodine would be an excellent antiseptic agent (for use in such surgical dressings) but for giving the gauze an unsightly appearance, and after a period of time in the gauze, the iodine will lose a some of its antiseptic power (col. 1, lines 6-30). To address these problems but still retain the antiseptic ability of iodine, Karns' invention

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consists of a surgical gauze which, upon application to a moist wound or upon being moistened with water, will release free iodine to serve the antiseptic purpose (col. 1, lines 33-38). To accomplish this, a surgical gauze is impregnated with an iodine-containing material and a material capable of releasing iodine from such iodine-containing material (oxidizing material) when they are brought into contact with water (col. 1, lines 39-46). The iodine-releasing material can be an iodide such as sodium iodide, potassium iodide, calcium iodide or barium iodide (col. 1, line 49-col. 2, line 56). The oxidizing material can be metallic iodates, such as calcium or potassium iodate (col. 2, lines 56-59).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 61-69, 73, 76, 92-93, and 95-96 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montgomery et al. (U.S. Pat. No. 4,576,817), further in view of Karns and Zanolwiak ("Pharmaceuticals").

Montgomery teaches enzymatic absorbent materials for body contact applications. The materials contain serum-activated oxidoreductase enzyme for producing hydrogen peroxide (Abstract). A suitable oxidoreductase enzyme is Glucose Oxidase (Table A). The material can also contain iodine along with the enzyme (claim

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13). The contraceptive flexible foam pad can be obtained by incorporating spermicidal composition in the invention (col. 8, lines 20-22). However, Montgomery does not disclose using a iodide or iodate in the invention.

As stated previously, Karns teaches a surgical gauze incorporating an iodate and an iodide which will release iodine upon interaction with fluids or water. Such gauze is beneficial as it allows the full antiseptic effect of iodine to be utilized when activated.

Zanowiak relates to manufacturing pharmaceuticals. It is shown, at page 11, first paragraph, that siloxane polymers are well known materials used for contraceptive therapy.

Motivation to utilize the teaching of Karns, notably a material comprised of an iodate and iodide that, upon activation with fluid or water, releases iodine, would have arisen in order to obtain the full antiseptic effect of the iodine (which is shown to be useful and desired in the invention of Montgomery). As siloxane polymers are known to be used for contraceptive therapy, one with ordinary skill in the art would have known to utilize such material to deliver the invention of Montgomery, i.e. a contraceptive flexible foam.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M DeWitty whose telephone number is 703-308-2411. The examiner can normally be reached on 9:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees can be reached on 703-308-4527. The fax phone numbers for

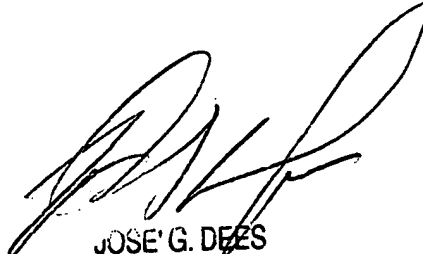
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the organization where this application or proceeding is assigned are 703-308-7924 for regular communications and 703-308-7924 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

RMD

March 15, 2002


JOSE G. DEES
SUPERVISORY PATENT EXAMINER
1616